

## CHAPTER 2

# CALIFORNIA CHILD SUPPORT GUIDELINE

The discussion of the California child support guideline in this report presumes some understanding of provisions in the guideline. These provisions are described at length in past legislation (Fam. Code, Article 2, §§ 4050–4076) and several reports. For example, the Judicial Council of California’s report titled *Review of Statewide Uniform Child Support Guideline 1998* provides a detailed description of the guideline and some of its special provisions.<sup>3</sup> This report excerpts some background information about the guideline from the 1998 Judicial Council report. In particular, it discusses three issues that were the focus of this study:

- Gross versus net income as a base from which to compute a support obligation;
- Low-income adjustments; and
- Adjustments for additional dependents.

### THE CHILD SUPPORT GUIDELINE FORMULA

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The guideline formula appears to be fairly simple:  $CS = K[HN - (H\%)(TN)]$  where

CS = the monthly child support obligation for one child. For more than one child, CS is multiplied by an additional factor ranging from 1.6 for two children to 2.86 for 10 children.

K = the percentage of total net income allocated to child support. This percentage varies depending on the proportion of time the noncustodial parent spends with the child and the total net income of the parents.

HN = the net income of the higher earner of the parents.

H% = the proportion of time the child spends with the higher earner.

TN = the parents’ combined net income.

Thus, the child support obligation depends on three factors: (1) the net income of the two parents, (2) the proportion of time the child spends with each parent, and (3) the number of children for whom support is being sought. As discussed below, however, there are several complexities that are not evident from the formula alone. For example, the computation of the K factor is complex because it varies depending on the parents’ net income and the proportion of time the children spend with the higher earner. As explained in Article 2 of the Family Code, section 4055(b)(3):

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<sup>3</sup> Judicial Council of California (1998).

K equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income per Month	K
\$0–\$800	$0.20 + \text{TN}/16,000$
\$801–\$6,666	0.25
\$6,667–\$10,000	$0.10 + 1,000/\text{TN}$
Over \$10,000	$0.12 + 800/\text{TN}$

Thus, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times 0.25 = 0.30$ . And if H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (2 - 0.80) \times 0.25 = 0.30$ .

An example will help illustrate how child support is calculated using the formula. Assume the following:

- One parent has monthly net disposable income of \$4,000 and the other parent has \$1,000. The higher earner's net disposable income (HN in the formula) is therefore \$4,000.
- The parents' total combined net disposable income (TN in the formula) is \$5,000.
- The higher earner has physical custody of the child 20 percent of the time (i.e., H% in the formula = 0.20).
- There is one child being supported.

The K factor, as computed from the above table and explanation, is  $(1 + 0.20) (.25) = 0.30$

$$\begin{aligned} \text{CS} &= K[\text{HN} - (\text{H\%})(\text{TN})] \\ \text{CS} &= .30 [4,000 - (.20)(5,000)] \\ \text{CS} &= .30 [4,000 - 1,000] \\ \text{CS} &= \$900 \end{aligned}$$

The basic monthly child support amount that the higher earner will pay the lower earner is \$900. The final support amount will be greater than this if there are child-care costs and/or monthly health-care costs for the child not covered by health insurance. In addition, the court may consider increasing the basic support amount for costs related to the child's education or for other special needs of the child.

The final support obligation amount established by the guideline formula is presumed to be the correct amount of child support to be ordered. If the obligation amount differs from what would have been established by the formula, the court is

required to provide—in writing or on the record—the following information (Fam. Code, § 4056(a)):

- The amount of support that would have been ordered under the guideline formula;
- The reasons the amount of support ordered differs from the guideline formula amount; and
- The reasons the amount of support ordered is consistent with the best interest of the children.

If the support ordered is different from what the guideline formula calculated, either parent may request that the court document the following information in writing or on the record (Fam. Code, § 4056(b)):

- The net monthly disposable income of both parents;
- The actual federal income tax filing status of each parent and the number of exemptions;
- The deductions allowed from gross income for each parent; and
- The percentage of time each parent spends with the children.

Together, these provisions allow the Judicial Council to determine in its quadrennial review whether support orders are fair and adequate and whether they are consistent with the provisions of the guideline.

## **LOW-INCOME ADJUSTMENT**

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The child support guideline allows a low-income adjustment for obligors whose net disposable income is less than \$1,000 per month. There are three provisions in the existing guideline of most relevance to low-income obligors.

### **Whether a Low-Income Adjustment Shall Be Made**

The court must rule on whether a low-income adjustment shall be made if the obligor's net disposable income is less than \$1,000 per month. If the court rules in favor of the adjustment, it may reduce the formula-determined order amount by the percentage difference between the obligor's net monthly income and \$1,000 (Fam. Code, § 4055(b)(7)).

For example, if the obligor's monthly net disposable income is \$500 and CS calculated using the formula is \$150, the maximum low-income adjustment amount is:

Adjustment = CS [(1,000 – NI)/1,000] where

CS = child support order  
NI = obligor net income

Adjustment =  $150 [(1,000 - 500)/1,000]$

Adjustment = 150 [0.50]

Adjustment = \$75

The court would have discretion to order the obligor to pay as little as \$75 (\$150 – adjustment = \$75) or as much as \$150 or any amount between \$75 and \$150.

If a low-income adjustment is granted, the court shall “state the reasons supporting the adjustment in writing or on the record and shall document the amount of the adjustment and the underlying factors and circumstances” (Fam. Code, § 4055(c)).

### **Automation of the Low-Income Adjustment**

A provision in the automated version of the guideline first asks the user whether or not to apply the low-income adjustment. If the user answers “yes,” the computer program will calculate the range of the adjustment permitted (Fam. Code § 4055(b)(8)).

### **Presumed Income**

The state Welfare and Institutions Code addresses the situation where the obligor’s income is unknown and the order is being established by a local child support agency (Welf. and Inst. Code, § 11475.1(c)). If the obligor’s income or income history is unknown to the local child support agency, income shall be presumed to be an amount that results in a court order equal to the minimum basic standard of adequate care for the supported child or children (Fam. Code, § 17400(d)(2)). A schedule of support order amounts is published annually that links presumed income and respective presumed order amounts. In fiscal year 1999–2000, for example, the presumed income for an obligor with one child to be supported was \$1,966 per month. The child support order amount for that income level was \$390 per month.

## **INCOME BASE OF GUIDELINE**

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California, like 18 other states, uses net income as the base from which to compute a child support obligation. Furthermore, it sums both parents’ net income in applying the formula to establish the support obligation.

Under Family Code section 4059, the guideline defines what is meant by net

disposable income and specifies the types of deductions that are allowed in computing net from gross income. Nevertheless, the judicial officer has some discretion in determining what income is included in a parent's gross income (for example, employee benefits, overtime pay, bonuses) and what deductions to gross income are acceptable (for example, job-related expenses). Further, the judicial officer may impute income to one or both parties based on the parent's earning capacity if that is in the best interest of the child or children being supported.

## **ADDITIONAL DEPENDENTS**

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There are two provisions in the existing guideline of most relevance to additional dependents.

- Family Code section 4059 applies to support being paid for an additional dependent who does not reside with the parent. It simply subtracts the amount paid from the eligible parent's income.
- Family Code section 4071 (the hardship deduction) applies to additional dependents living with the parent. A hardship deduction can be subtracted from the income of the parent of the additional dependent prior to calculating child support. The amount of the hardship deduction cannot exceed the child support allocated per child subject to the order.

